

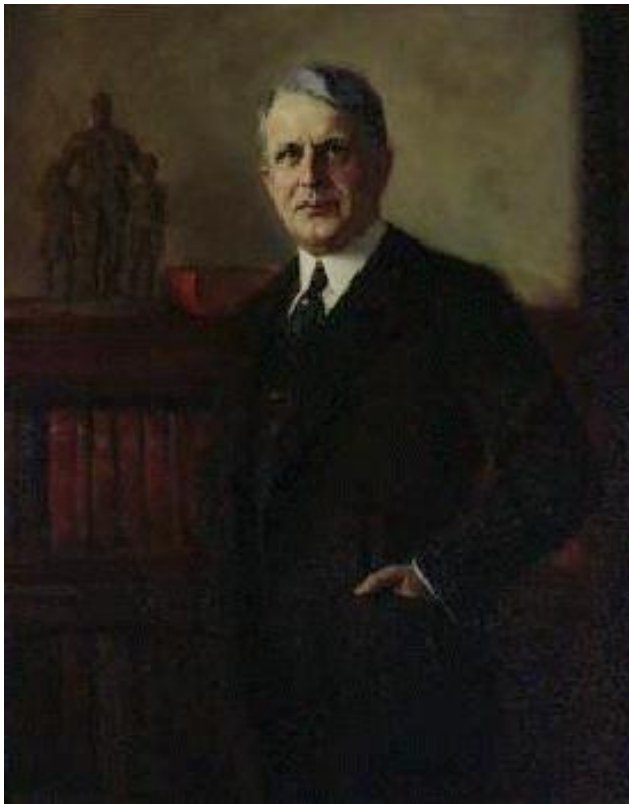
Davis-Bacon Prevailing Wage Provisions

Requirements and Implementation



Introduction to Davis-Bacon

- Davis



- Bacon



Davis-Bacon and ARRA

- Section 1606 of the ARRA legislation:

“Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, **all laborers and mechanics employed by contractors and sub contractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality** as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.”

- Davis-Bacon applies to all ARRA projects
- Applies for the entire project, not just the portion funded by ARRA

Notes:

- ARRA includes a Davis-Bacon clause – this is NOT the same as requiring the Davis-Bacon Act
- This presentation describes the most updated ARRA requirements for Davis-Bacon with some changes, so some information may be new

Assistance Recipient Davis-Bacon Responsibilities

1. Find appropriate wage determinations
2. Include wage determinations and required language in bids and contracts
3. Collect, review, and forward weekly payroll and compliance statements to NH
4. Conduct wage rate interviews
5. Verify registration/certifications for apprentices and trainees

1. Find Appropriate Wage Determinations

Wage Determinations

- The Department of Labor (DOL) establishes prevailing wages
 - Each determination has several classifications, based on job work function and location
 - Updated periodically
- You **cannot** use prevailing wages established by others (DOT, state agencies)
- Current wage rates and notification of pending revisions can be found online at:

Notes on Classifications

- A worker may need to be paid at multiple prevailing wages if:
 - They perform **multiple job types** at the same construction site
 - They perform the same job on **different types of construction** at the same construction site
- Contractors can pay varying rates based on job and construction type, or always pay the highest applicable rate

Location

- A determination is only valid for a project if it is listed for the county in which the project took place
 - You cannot use the determination from a neighboring county for your project

Wage Determinations OnLine.gov

Providing public access to federal wage determinations and related information.

WDOL.gov is part of the Integrated Acquisition Environment, one of the E-Government initiatives in the President's Management Agenda. It is a collaborative effort of the Office of Management and Budget, Department of Labor, Department of Defense, General Services Administration, Department of Energy, and Department of Commerce.

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Service Contract Act	Davis-Bacon Act	Related Information
<ul style="list-style-type: none">▪ Selecting SCA WDs▪ e98▪ Archived WDs▪ WDs due to be revised	<ul style="list-style-type: none">▪ Selecting DBA WDs▪ Archived WDs▪ WDs due to be revised	<ul style="list-style-type: none">▪ Agency Labor Advisors▪ Library▪ DOL Wage and Hour Website

Welcome to the Wage Determinations OnLine Program!

This website provides a single location for federal contracting officers to use in obtaining appropriate Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations (WDs) for each official contract action. The website is available to the general public as well. Guidance in selecting WDs from this website is provided in the WDOL.gov User's Guide.

Alternatively, the WDOL.gov Program also provides contracting officers direct access to the Department of Labor's (DOL's) "e98" website to submit a request for SCA WDs for use on official contract actions. In some instances, the WDOL.gov Program will not contain the appropriate SCA WD, and contracting officers will be directed to use DOL's e98 website in order to obtain the required SCA WD. DOL will provide the contracting officer with an SCA WD through the e98 system.

Questions pertaining to the application of contract labor standards or the selection of appropriate WDs for specific contract actions should be referred to the contracting officer or to the designated agency labor advisors.

News and Updates...

» The DOL has announced the dates for the first in a series of Prevailing Wage Conferences to be held throughout the country at locations within each of their five regions.

The Wage and Hour Division will host three Prevailing Wage Conferences in September. The conferences will address issues associated with the administration and enforcement of the Davis-Bacon Act, McNamara O'Hara Service Contract Act, and the labor standards provisions of the American Recovery and Reinvestment Act of 2009.

The conferences are scheduled for Long Beach, California from September 15-17; San Antonio, Texas from September 22-24; and Boston, Massachusetts from September 29 through October 1. Registration requests are now being accepted. You may pre-register for these

Wage Determinations Online

http://wdol.gov/dba.aspx#3

Webmail US EPA CW US EPA DW Forum CWSRFtraining.net Webcasts Research TWC Maps M NextBus Other bookmarks

Select DBA WD by number:

(Enter WD number in the following format: two letter abbreviation for the state and the number of the WD. For example, VA3, NOT VA030003 or MD150 NOT MD030150.)

OR

By Selection criteria beginning with:

State:

County:

Construction Type: (Types of Construction Under DBA)

WD Number:

[Back](#)

Browse by [state/territory](#).

View the latest [modifications and additions](#) to the Davis-Bacon Database.

View the [modifications or additions](#) to Davis-Bacon Wage Determinations due to be issued and published on WDOL.gov.

View [Archived Wage Determinations](#)

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Wage Determinations Online

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http://wdol.gov/dba.aspx

Webmail US EPA CW US EPA DW Forum CWSRFtraining.net Webcasts Research TWC Maps M NextBus Other bookmarks

that have been incorporated by the contracting officer in that contract action.

Selecting DBA Wage Decisions

The Wage Determination you have requested is below.

Please scroll down to review the WD carefully to ensure that it is appropriate for the specific contract action.

	Rates	Fringes
Carpenter		
_includes form work.....	\$ 17.58	2.87
Laborers:		
_Flagger.....	\$ 9.55	2.9
_General (includes pipelaying).....	\$ 11.70	1.58
Power equipment operators:		
_Bulldozer.....	\$ 12.66	1.69
_Crane.....	\$ 21.11	1.98
_Excavator.....	\$ 15.48	2.59

Rate + fringe = prevailing wage

[Printer Friendly Version](#)

Sign Up for Alert Service

Find Another WD

Exit

[Back](#)

Wage Determinations Online

http://wdol.gov/dba.aspx#3

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	Rates	Fringes
Carpenter (includes form work).....	\$ 17.58	2.87
Laborers:		
_Flagger.....	\$ 8.50	.29
_General, including pipelaying.....	\$ 12.13	1.96
Power equipment operators:		
_Bulldozer.....	\$ 12.66	1.69
_Crane.....	\$ 21.11	1.98
_Excavator.....	\$ 15.48	2.59
_Front end loader.....	\$ 11.39	1.63

Rate + fringe = prevailing wage

[Printer Friendly Version](#)

Sign Up for Alert Service

Find Another WD

Exit

[Back](#)

Notes on Fringe Benefits

- Under ARRA's Davis Bacon requirements, employers can choose to pay fringe benefits by:
 - Providing additional cash wages under the base rate
 - Providing a “bona-fide” benefits plan where benefits are separate
- Does not matter the value of base and fringe, as long as together they equal the prevailing wage

If There is No Existing Classification

- Assistance recipient must apply for a project-specific determination (conformance)
- Assistance recipient may NOT use a wage classification for your job in another construction type or county
- Assistance recipient can request a determination after contracts are signed using SF 1444
 - May be a way to get determinations prior to contracts being signed, but this is still being determined

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE					<small>CHECK APPROPRIATE BOX</small> <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> CONSTRUCTION CONTRACT	<small>OMB No.:</small> 9000-0089 <small>Expires:</small> 04/30/2005
<small>Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVP), Office of Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.</small>						
INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER.						
1. TO: ADMINISTRATOR, Employment Standards Administration WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210			2. FROM: (REPORTING OFFICE)			
3. CONTRACTOR				4. DATE OF REQUEST		
5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)		
10. SUBCONTRACTOR (IF ANY)						
11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)						
12. LOCATION (CITY, COUNTY AND STATE)						
13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION						
NUMBER: _____		DATED: _____				
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY) <small>(Use reverse or attach additional sheets, if necessary)</small>		b. WAGE RATE(S)		c. FRINGE BENEFITS PAYMENTS		
14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)			15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE			
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE			TITLE		<small>CHECK APPROPRIATE BOX REFERENCING BLOCK 13.</small> <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE	
TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))						
<input type="checkbox"/> THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.						
<input type="checkbox"/> THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.						
<small>(Send copies 1, 2, and 3 to Department of Labor)</small>						
SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE			TITLE AND COMMERCIAL TELEPHONE NO.		DATE SUBMITTED	

SF 1444

Project-Specific Determinations

- Contractor, laborer or mechanic or their representative, and assistance recipient should attempt to agree on a wage
- Assistance recipient submits SR 1444 to NH, either with the agreement of laborer or mechanic or without it
- NH forwards request to DOL
- DOL has 30 days to approve or deny

Project-Specific Determinations

- Even though project-determinations are not available until after contractors are signed, laborers or mechanics must be paid at the rate specified in the determination retroactive to the beginning of the project
 - May require additional wage payments
- The assistance recipient is responsible for this increase in costs
- ALWAYS HAVE A CONTINGENCY FUND!

2. Include required clauses and wage determinations in bids solicitations and contracts

Required Clauses

Clauses for inclusion in contracts can be found in:

- SRF Davis-Bacon grant conditions
(Page 3, “Contract and Subcontract Provisions)

available at:

[http://www.epa.gov/ogd/tc/State Revolving Funds.pdf](http://www.epa.gov/ogd/tc/State_Revolving_Funds.pdf)

Wage Determinations in Contracts

- The **only way** to “lock-in” a wage determination is to include a reference to that determination in an executed construction contract
- This reference can be:
 - Wage categories and actual rates
 - Wage category citations and dates of access
- If determinations are not in contracts, and DOL raises the rate, then contractors must pay the new, higher rate

“Lock-in” Parameters

- If DOL updates a wage rate more than 10 days prior to bids being accepted, solicitation must be updated to include new rate
- If DOL updates a wage rate and contracts are not signed within 90 days of bid closing, contracts must include updated rate

No Expiration Date

- Wage determinations remain effective for the life of the contract:
 - Exception: the contracting Officer chooses to extend the life of the contract after a new wage determination has been released



What if My Project is Already Under Contract?

- Either re-bid, or issue a change order
- Wage rates must be incorporated retroactive to the beginning of the contract for any of the project to be eligible for ARRA funds
- Assistance recipient is responsible for any resulting cost increase
- Make sure you have a contingency fund!

What if I Use the Wrong Prevailing Wage?

Same answer:

- Either re-bid, or issue a change order
- Wage rates must be incorporated retroactive to the beginning of the contract
- Assistance recipient is responsible for any resulting cost increase
- Make sure you have a contingency fund!

3. Collect, review, and forward
weekly payroll and
compliance statements to NH

Weekly Payroll and Compliance

- All contractors and subcontracts must submit payroll with accompanying compliance statement to assistance recipient weekly
 - Required Federal Form 347
 - Includes compliance statement
- Maintain these payrolls and compliances for 3 years after construction ends

WH-347

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

PAYROLL (For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.



NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>				ADDRESS				OMB No.: 1215-0149 Expires: 12/31/2011					
PAYROLL NO.		FOR WEEK ENDING		PROJECT AND LOCATION				PROJECT OR CONTRACT NO.					
(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE OT OR ST. HOURS WORKED EACH DAY	(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK	
							FICA	WITH- HOLDING TAX			OTHER		TOTAL DEDUCTIONS
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

WH-347 (back)

Date _____

I, _____ (Name of Signatory Party) _____ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)
_____ ; that during the payroll period commencing on the
(Building or Work)
_____ day of _____, _____, and ending the _____ day of _____, _____,
all persons employed on said project have been paid the full weekly wages earned, that no rebates have
been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)
weekly wages earned by any person and that no deductions have been made either directly or indirectly
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part
3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the
applicable wage rates contained in any wage determination incorporated into the contract; that the
classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide
apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of
Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a
State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ — in addition to the basic hourly wage rates paid to each laborer or mechanic listed in
the above referenced payroll, payments of fringe benefits as listed in the contract
have been or will be made to appropriate programs for the benefit of such
employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ — Each laborer or mechanic listed in the above referenced payroll has been paid,
as indicated on the payroll, an amount not less than the sum of the applicable
basic hourly wage rate plus the amount of the required fringe benefits as listed
in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

--	--

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR
SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE
31 OF THE UNITED STATES CODE.

Weekly Payroll and Compliance

- Periodic review of payroll must include:
 - Correctness of classification and rates
 - Fringe benefits payments
 - Hours worked
 - Deductions
 - Disproportionate employment ratios of laborers, apprentices, or trainees to journeymen

Forward to NH

- Weekly certified payroll and certifications of compliance must be forwarded to NH

4. Conduct wage rate interviews

Wage Rate Interviews

- Must be conducted at least twice by assistance recipients
 - Within two weeks of a contractor or subcontractor's first submission of payroll data
 - Within two weeks of the estimated project completion date

Wage Rate Interviews

- Must include:
 - Notation of each employee's:
 - Duties performed
 - Tools used
 - Note discrepancies between observations and employees' statements
 - Sign and date
- Compare this information with the rates being paid

Wage Rate Interviews

- Can use Standard Form 1445 or equivalent to memorialize interviews
- Additional interviews are appropriate if deemed necessary by assistance recipient

LABOR STANDARDS INTERVIEW						
CONTRACT NUMBER			EMPLOYEE INFORMATION			
NAME OF PRIME CONTRACTOR			LAST NAME		FIRST NAME	
NAME OF EMPLOYER			STREET ADDRESS			
SUPERVISOR'S NAME			CITY		STATE	ZIP CODE
LAST NAME	FIRST NAME	MI	WORK CLASSIFICATION		WAGE RATE	
ACTION					CHECK BELOW	
					YES	NO
Do you work over 8 hours per day?						
Do you work over 40 hours per week?						
Are you paid at least time and a half for overtime hours?						
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?						
WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?						
HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?			TOOLS YOU USE			
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)						
DATE YOU BEGAN WORK ON THIS PROJECT (YYMMDD)						
THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE						
EMPLOYEE'S SIGNATURE					DATE (YYMMDD)	
INTERVIEWER	SIGNATURE		TYPED OR PRINTED NAME		DATE (YYMMDD)	
INTERVIEWER'S COMMENTS						
WORK EMPLOYEE WAS DOING WHEN INTERVIEWED			ACTION (If explanation is needed, use comments section)		YES	NO
			IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?			
			ARE WAGE RATES AND POSTERS DISPLAYED?			
FOR USE BY PAYROLL CHECKER						
IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?						
<input type="checkbox"/> YES <input type="checkbox"/> NO						
COMMENTS						
CHECKER						
LAST NAME		FIRST NAME		MI	JOB TITLE	
SIGNATURE					DATE (YYMMDD)	

SF 1445

5. Conduct Apprentice and Trainee Verification

Apprentice and Trainee Certification Verification

- Apprentices must be:
 - Registered in a program registered with DOL
 - Or is in a 90 day probationary employment in such a program
- Trainees must be:
 - Employed in a program that has been certified by DOL
 - Ratio of trainees to journeymen is set under the approved plan

Other Requirements

Debarred Contractors

- Contractors and subcontractors that have been debarred from working on Federal projects for labor infractions cannot be hired
 - List can be found on the General Services Administration (GSA) website:

<https://www.epls.gov/>

EPA Inspector General Reviews

- EPA's Office of Inspector General will be conducting reviews of Davis-Bacon compliance
- May conduct unannounced inspections at the project site and at the office
 - Review payroll records for compliance with D-B

Davis-Bacon Records

- ☐ Copy of contract with wage determination and Davis-Bacon compliance language
- ☐ Change orders to revise wage determination (if applicable)
- ☐ Copy of wage determination request form and DOL project-specific determination (if applicable)
- ☐ Note verifying (non)debarment status
- ☐ Weekly payroll records
- ☐ Copy of weekly signed Statement of Compliance (back of WH-347)
- ☐ Completed Standard Form 1445 for Davis-Bacon interviews (at least two separate reports)
- ☐ Notes to the file confirming spot-check of payroll records (at least two separate reports)
- ☐ Registrations and certifications for apprentices and trainees

More Information

- Wage Determinations Online
 - www.wdol.gov
- Department of Labor
 - <http://www.dol.gov/esa/whd/>
- DOL ARRA website
 - <http://www.dol.gov/esa/whd/recovery/>
- DOL Wage Division Field Operations Handbook
 - <http://www.dol.gov/esa/whd/FOH/index.htm>

Questions?